STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION

In Re: Morris Manor, LLLP FHFC Case No.: 2025-031VW

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ORDER GRANTING WAIVER OF RULES 67-48.0072(12) AND 67-48.0072(17)(h), F.A.C. (2020)

THIS CAUSE came for consideration and final action before the Board of Directors of the Florida Housing Finance Corporation (the "Board") on June 13, 2025. On May 28, 2025, Florida Housing Finance Corporation ("Florida Housing") received a Petition for Waiver of Rules 67-48.0072(12) and 67-48.0072(17)(h), F.A.C. (2020) (the "Petition") from Morris Manor, LLLP ("Petitioner"). The Petition seeks a waiver of the referenced rule requiring a singular Guaranteed Maximum Price ("GMP") construction contract. The Petition also seeks a waiver of the 20% limitation rule for rehabilitation developments. Notice of the Petition was published on May 29, 2025, in Volume 51, Number 104, of the Florida Administrative Register. Florida Housing received no comments regarding the Petition. After careful review of the record and being otherwise fully advised on the premises, the Board hereby finds:

1. The Board has jurisdiction over the subject matter of this case and the parties hereto.

FILED WITH THE CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION
DATE: 6/13/2025

2. Petitioner successfully applied for funding to assist in the construction of Morris Manor, a 168-unit development located in Duval County, Florida (the "Development").

3. Rule 67-48.0072(12), F.A.C. (2020) states in relevant part:

> (12) For Competitive HC, SAIL, and HOME, the Corporation's assigned Credit Underwriter shall require a guaranteed maximum price construction contract, which may include change orders for changes in cost or changes in the scope of work, or both, if all parties agree, and shall order, at the Applicant's sole expense, and review a pre-construction analysis for all new construction units and a CNA for rehabilitation units and review the Development's costs. If an EHCL Development has a General Contractor, the preceding requirement will also apply to the EHCL Development.
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> Rule 67-48.0072(17)(h), F.A.C. (2020) states in relevant part:
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> (h) For Developments with a Development category of Rehabilitation or Substantial Rehabilitation, unless otherwise approved by the Board for a specific Development, ensure that no more than 20 percent of the construction cost, not to include the General Contractor fee or pass-through fees paid by the General Contractor, is subcontracted to any one entity or any group of entities that have common ownership or are Affiliates of any other subcontractor, with the exception of a subcontractor (or any group of entities that have common ownership or are Affiliates of any other subcontractor) contracted to perform work on both the HVAC and electrical components of a building of at least seven (7) stories which may not have more than 31 percent of the construction cost in the subcontract, unless otherwise approved by the Board for a specific Development. For purposes of this paragraph, "Affiliate" has the meaning given in subsection 67-48.002(5), F.A.C., except that the term "Applicant" therein shall mean "subcontractor"; and (i) Ensure that no construction cost is subcontracted to any entity that has common ownership or is an Affiliate of the General Contractor or the Developer. For

purposes of this paragraph, "Affiliate" has the meaning given it in subsection 67-48.002(5), F.A.C., except that the term "Applicant" therein shall mean "General Contractor."

4. Petitioner requests a waiver of the referenced rules, asserting that a singular GMP construction contract is impractical for the Development. Petitioner and the General Contractor ("GC") executed a GMP construction contract in the amount of $15,275,900 (consisting of an original amount of 14,194,949 plus change orders totaling $1,080,951, collectively), (the "GMP Contract"). The GMP Contract was fully executed and in effect prior to the commencement of construction and remained in effect through completion of the Development, which received its final certificate of completion on July 18, 2023. Petitioner completed additional construction work outside the GMP Contract, including repairs to the lift station, replacement of several rooftop HVAC units, and associated electrical gear and site work repairs (the "Outside Contractual Work"). The Outside Contractual Work was removed from the GMP Contract via change order and documented separately in a Short Form Construction Contract to address supply chain delays and prevent disruption. The combined construction amount of $15,275,900 consists of (i) $14,917,358 paid under the GMP Contract, as modified by the change order, and (ii) $358,542 paid under the Short Form Construction Contract. In order to finalize the Cost Certification, Petitioner seeks to include the costs incurred

for the Outside Contractual Work in total eligible construction costs. Petitioner also requests a waiver of the 20% subcontractor limitation applicable to rehabilitation developments. Petitioner states that the cost of electrical work exceeded the 20% threshold by $266,497, or approximately 2% of the total construction cost. The overage resulted from the scope and complexity of rehabilitating a high-rise originally built in 1980. Petitioner asserts that utilizing a single electrical subcontractor provided consistency, coordination, and efficiency, and that dividing the scope between unaffiliated subcontractors would have jeopardized quality and schedule. The electrical subcontractor is not related to, and is not an affiliate of the GC, Petitioner, the developer, or any other subcontractor under or pursuant to the GMP Contract.

5. The Board finds that granting the requested waiver will not adversely impact other participants in funding programs administered by Florida Housing, nor will it detrimentally affect Florida Housing.

6. The Board also finds that Petitioner has demonstrated that strict application of the rule would impose a substantial hardship if the waiver is not granted.

7. The Board further finds that Petitioner has demonstrated that the purpose of the underlying statute, which is to "encourage development of low-

income housing in the state," would still be achieved if the waiver is granted. §420.5099, F. S.

IT IS THEREFORE ORDERED that Petitioner's request for waiver of Rule 67-48.0072(12), F.A.C. (2020), requiring a singular guaranteed maximum price construction contract with no further analysis or conditions based on the de minimis amount of the Short Form Construction Contract is hereby **GRANTED. IT IS FURTHER ORDERED** that Petitioner's request for waiver of Rule 67-48.0072(17)(h), F.A.C. (2020) imposing the 20% subcontracting limitation rule for rehabilitation developments upon receipt of a positive recommendation from the credit underwriter is hereby **GRANTED**.

DONE and ORDERED this 13th day of June, 2025.

Florida Housing Finance Corporation

By: _____
Chairperson

Copies furnished to:

Terry M. Lovell, Esquire
Bilzen, Sumberg, Baena, Price & Axelrod, LLP
tlovell@bilzin.com

Laura J. Cox, on Behalf of the Office of the General Counsel
Cecilie Sykes, Assistant General Counsel
Melissa Levy, Managing Director of Multifamily Programs
Florida Housing Finance Corporation
Laura.Cox@floridahousing.org
Cecilie.Sykes@floridahousing.org

Melissa.Levy@floridahousing.org

Joint Administrative Procedures Committee
Attention: Ms. Yvonne Wood
Joint.admin.procedures@leg.state.fl.us

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS ORDER IS ENTITLED TO ADMINISTRATIVE REVIEW PURSUANT TO SECTIONS 120.542(8), 120.569, AND 120.57, FLORIDA STATUTES. SUCH PROCEEDINGS ARE COMMENCED PURSUANT TO CHAPTER 67-52, FLORIDA ADMINISTRATIVE CODE, BY FILING AN ORIGINAL AND ONE (1) COPY OF A PETITION WITH THE AGENCY CLERK OF THE FLORIDA HOUSING FINANCE CORPORATION, 227 NORTH BRONOUGH STREET, SUITE 5000, TALLAHASSEE, FLORIDA 32301-1329.